

STATE OF CALIFORNIA
BUSINESS TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS

TO: Joel Barry Shamitoff
Shamitoff Industries Inc.
29 Tall Hedge
Irvine, CA 92603

John Dennis Lucero
Universal Interactive LLC
Universal Interactive Licensing LLC
4924 Hollycrest Way
Fair Oaks, CA 95628

CITATIONS
And
DESIST AND REFRAIN ORDERS

(For violation of sections 31110 and 31201 of the Corporations Code)

The California Corporations Commissioner finds that:

1. At all relevant times Joel Barry Shamitoff (“Shamitoff”) was a resident of California. Shamitoff is the registered agent for a Nevada corporation, Shamitoff Industries Inc., (Shamitoff Industries) formed in 1990, and located at 29 Tall Hedge, Irvine, CA 92603.
2. At all relevant times John Dennis Lucero (“Lucero”) was a resident of California. John D. Lucero is a registered agent of Universal Interactive LLC, (Universal) and Universal Interactive Licensing LLC, (Universal Licensing), both Delaware corporations that filed in California on January 30, 2007, with a business address of 4924 Hollycrest Way, Fair Oaks, CA 95628. Shamitoff Industries, Universal, and Universal Licensing are hereinafter collectively referred to as the Franchisors.
3. Commencing in 2005, and continuing until at least 2007, Shamitoff and Lucero and the Franchisors offered for sale and sold franchises in California creating the right to sell soft toys under the trademark “Snapables”. The sale of the rights to sell Snapables were franchises as defined in the California Franchise Investment Law at Corporations Code sections 31000 et seq. Specifically

1 Shamitoff and Lucero and the Franchisors solicited the participation and investment by franchisees,
2 and the agreements with the franchisees constituted franchise agreements under Corporations Code
3 section 31005. These franchises were offered and sold in this state without being registered, or being
4 exempt, in violation of Corporations Code section 31110. These toys were to be sold under a
5 marketing plan developed and closely supervised by Shamitoff, Lucero and the Franchisors.

6 4. The primary distinguishing characteristic of Snapable toys was that the appendages (arms,
7 legs, heads) could be removed and interchanged with other toys made by the same manufacturer, and
8 when the appendages were removed the toy would make a snapping sound. The second
9 distinguishing characteristic of the franchise is that all inventory and product of the franchisees was
10 to be sold out of kiosks by means of a distinct marketing plan that was prescribed in substantial part
11 by Shamitoff, Lucero and the Franchisors. The kiosks would be located in major shopping malls
12 throughout the state of California and around the country. All negotiations for kiosk space were
13 controlled by Shamitoff, Lucero and the Franchisors. Franchisees were specifically instructed not to
14 contact any mall owners, as all communications were by and through the Franchisors. The design of
15 the kiosks was controlled by the Franchisors.

16 5. Each person recruited to purchase a Snapable Toy franchise was required to pay Shamitoff,
17 Lucero and the Franchisors significant sums of money ranging from \$200,000 to \$400,000 to obtain
18 the right to enter into the business. This fee was termed an "Annual Development Expense" but in
19 fact it was a franchise fee. Under Corporations Code section 31011 a "Franchise Fee" means "any fee
20 or charge that a franchisee...is required to pay or agrees to pay for the right to enter into a business
21 under a franchise agreement."

22 6. Shamitoff and Lucero individually and the Franchisors together, made representations to
23 prospective franchisees regarding the existence of contracts with toy manufacturers in China.
24 Prospective franchisees were told that a contract existed with a factory or factories in China to
25 produce required amounts of inventory that would be shipped to the United States in time for the
26 Christmas season of 2005. In fact Shamitoff and Lucero have never presented any proof whatsoever
27 to prospective franchisees that there was in fact a factory in China or a contract with that factory to
28

1 manufacture Snapable toys. Shamitoff, Lucero and the Franchisors at all times herein controlled
2 communications with the purported manufacturers.

3 7. Shamitoff and Lucero and the Franchisors sold a franchise to a franchisee in 2007. At the
4 time, Shamitoff and Lucero and the Franchisors failed to disclose to the franchisee the following
5 information:

6 a) That they had sold a similar franchise to another franchisee in 2005.

7 b) That they had made similar representations to the previous franchisee that a certain
8 quantity of inventory would be provided to the franchisee.

9 c) That after more than two years the promised inventory had never been delivered to the first
10 franchisee.

11 8. Based on the foregoing, the California Corporations Commissioner is of the opinion that
12 the franchises offered by Shamitoff, Lucero and the Franchisors were offered or sold in this state by
13 means of written or oral communications which included an untrue statement of a material fact or
14 omitted to state a material fact necessary in order to make the statements made, in the light of the
15 circumstances under which they were made, not misleading, in violation of Corporations Code
16 Section 31201.

17 9. Pursuant to California Corporations Code section 31406, Joel B. Shamitoff, and
18 Shamitoff Industries Inc., John Dennis Lucero, Universal Interactive LLC and Universal
19 Interactive Licensing are hereby ordered to desist and refrain from the further offer or sale of
20 Snapable Toy franchises by means of written or oral communications that include an untrue
21 statement of a material fact or omits to state a material fact necessary in order to make the
22 statement made, in the light of the circumstances under which they were made, not
23 misleading.

24 10. Based upon the foregoing findings, the California Corporations Commissioner is of the
25 opinion that Joel B. Shamitoff, Shamitoff Industries Inc., John Dennis Lucero, Universal Interactive
26 LLC and Universal Interactive Licensing LLC have engaged in the offer and sale of Snapable Toy
27 franchises in California that are subject to registration under the Franchise Investment Law without
28 the offers first being registered, in violation of Corporations Code section 31110. Pursuant to section

31406 of the Corporations Code Joel B. Shamitoff, Shamitoff Industries Inc., John Dennis Lucero, Universal Interactive LLC and Universal Licensing LLC are hereby ordered to desist and refrain from the further offer or sale of Snapable Toy franchises unless and until the offers have been duly registered under the Franchise Investment Law, or exempt.

11. Further, pursuant to California Corporations Code section 31406, Joel B. Shamitoff, and Shamitoff Industries Inc., are hereby ordered to pay an administrative penalty to the California Corporations Commissioner of \$2500 for the violation of Corporations Code section 31110, and \$2500 for the violation of Corporations Code section 31201. John Dennis Lucero, Universal Interactive LLC and Universal Interactive Licensing LLC are hereby ordered to pay to the California Corporations Commissioner an administrative penalty of \$2500 for the violation of Corporations Code section 31110, and \$2500 for the violation of Corporations Code section 31201.

12. These Citations and Orders herein are necessary, in the public interest, for the protection of investors and consistent with the purposes, policies and provision of the Corporate Securities Law of 1968.

Dated: February 17, 2009

PRESTON DuFAUCHARD
California Corporations Commissioner

By: _____
ALAN S. WEINGER
Lead Corporations Counsel
Enforcement Division